

1 KRISTIN K. MAYES  
2 Attorney General of Arizona  
(Firm State Bar No. 14000)  
3 Alyse Meislak (AZ Bar 024052)  
4 Dylan Jones (AZ Bar No. 034185)  
Office of the Arizona Attorney General  
5 2005 North Central Avenue  
Phoenix, AZ 85004  
6 Phone: (602) 542-3725  
7 Fax: (602) 542-4377  
consumer@azag.gov  
8 *Lead Counsel for Plaintiffs*  
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11 **IN THE UNITED STATES DISTRICT COURT**  
12 **FOR THE DISTRICT OF ARIZONA**

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14 State of Arizona, ex rel. Kristin K. Mayes,  
15 Attorney General; et al.

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Plaintiffs,

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Michael D. Lansky, L.L.C., dba Avid  
19 Telecom, et al.,

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Defendants.

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NO. CV-23-00233-TUC-CKJ

**PARTIES' JOINT 26(f)  
REPORT AND PROPOSED  
DISCOVERY PLAN**

1 Pursuant to Federal Rule of Civil Procedure 26(f), Local Civil Rules 16 and 26(f),  
 2 and this Court's July 8, 2024 Order (Dkt #73), counsel for the parties conferred on July 25,  
 3 2024, and submit the following report of their meeting for the Court's consideration.

4 All parties and their counsel are listed in the table below. The Lead Plaintiff States  
 5 in this matter are counsel for the Plaintiff States of Arizona, Indiana, North Carolina, and  
 6 Ohio. During the meet-and-confer with Defendants on July 25, 2024, and for all  
 7 appearances before the Court and exchanges with Defendants concerning this litigation,  
 8 the Lead Plaintiff States represent the position of all Plaintiff States. The names of counsel  
 9 who attended the July 25, 2024, meet-and-confer are preceded by an asterisk (\*). The Lead  
 10 Plaintiff States and Defendants met again on August 15, 2024.

<b>Party Name</b>	<b>Party Counsel</b>
Plaintiff State of Arizona	*Alyse Meislik *Dylan Jones
Plaintiff State of Indiana	*Douglas S. Swetnam
Plaintiff State of North Carolina	*Tracy Nayer *Asa C. Edwards IV *Danielle Wilburn Allen
Plaintiff State of Ohio	*Erin B. Leahy
Plaintiff State of Alabama	*Lindsay D. Barton Robert D. Tambling
Plaintiff State of Arkansas	*Amanda Wentz
Plaintiff People of the State of California	Nicklas A. Akers Bernard A. Eskandari *Timothy D. Lundgren *Rosailda Perez Michelle Burkart

	<b>Party Name</b>	<b>Party Counsel</b>
1	Plaintiff State of Colorado, ex rel. Philip J. Weiser, Attorney General	*Michel Singer Nelson Bianca Feierstein
2	Plaintiff State of Connecticut	*Brendan T. Flynn
3	Plaintiff State of Delaware	Ryan Costa
4	Plaintiff District of Columbia	Adam Teitelbaum
5	Plaintiff Ashley Moody, Attorney General of the State of Florida	*Patrick Crotty Miles Vaughn
6	Plaintiff State of Georgia	*David A. Zisook
7	Plaintiff State of Hawaii	Christopher J.I. Leong
8	Plaintiff State of Idaho	James J. Simeri ( <i>Pro Hac Vice motion forthcoming</i> )
9	Plaintiff People of the State of Illinois	*Philip Heimlich Elizabeth Blackston
10	Plaintiff State of Iowa	*Benjamin Bellus William Pearson
11	Plaintiff State of Kansas	*Nicholas C. Smith Sarah M. Dietz
12	Plaintiff Commonwealth of Kentucky	Jacob P. Ford
13	Plaintiff State of Louisiana	*ZaTabia N. Williams
14	Plaintiff State of Maine	Brendan O'Neil
15	Plaintiff Maryland Office of the Attorney General	*Philip Ziperman
16	Plaintiff Commonwealth of Massachusetts	Carol Guerrero
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	<b>Party Name</b>	<b>Party Counsel</b>
1	Plaintiff People of the State of Michigan	*Kathy P. Fitzgerald Michael S. Hill
2	Plaintiff State of Minnesota, by its Attorney General, Keith Ellison	*Bennett Hartz
3	Plaintiff Lynn Fitch, Attorney General State of Mississippi	James M. Rankin *Jessica D. Jasper ( <i>Pro Hac Vice motion forthcoming</i> )
4	Plaintiff State of Missouri, ex. rel. Andrew Bailey, Attorney General	Michael Schwalbert
5	Plaintiff State of Montana	Anna Schneider *Andrew Butler
6	Plaintiff State of Nebraska	*Gary E. Brollier
7	Plaintiff State of Nevada	*Michelle C. Badorine
8	Plaintiff State of New Hampshire	Mary F. Stewart
9	Plaintiff State of New Jersey	*Deepta Janardhan Jeffrey Koziar
10	Plaintiff Raúl Torrez, New Mexico Attorney General	Julie Ann Meade
11	Plaintiff Office of the Attorney General of the State of New York	Glenna Goldis
12	Plaintiff State of North Dakota	Elin S. Alm *Christopher Glenn Lindblad
13	Plaintiff State of Oklahoma ex rel. Attorney General Gentner Drummond	*Caleb J. Smith
14	Plaintiff State of Oregon	*Jordan M. Roberts

1	Party Name	Party Counsel
2	Plaintiff Commonwealth of Pennsylvania by Attorney General Michelle A. Henry	Mark W Wolfe
3	Plaintiff State of Rhode Island, by Attorney General Peter Neronha	Stephen N. Provazza
4	Plaintiff State of South Carolina	*Kristin Simons *Danielle Robertson
5	Plaintiff State of Tennessee	Austin C. Ostiguy Tyler T. Corcoran
6	Plaintiff State of Texas	*David Shatto
7	Plaintiff Utah Division of Consumer Protection	*Kevin McLean
8	Plaintiff State of Vermont	Jill Abrams ( <i>Pro Hac Vice motion forthcoming</i> )
9	Plaintiff Commonwealth of Virginia, ex rel. Jason S. Miyares, Attorney General	*Geoffrey L. Ward
10	Plaintiff State of Washington	*Alexandra Kory Mina Shahin
11	Plaintiff State of West Virginia ex rel. Patrick Morrisey, Attorney General	*Ashley T. Wentz
12	Plaintiff State of Wisconsin	*Gregory A. Myszkowski
13	Plaintiff State of Wyoming	Benjamin M. Peterson
14	Defendants Michael D. Lansky, L.L.C., dba Avid Telecom, Michael D. Lansky and Stacey Reeves	*Neil S. Ende
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1	Party Name	Party Counsel
2	Defendants Michael D. Lansky, L.L.C., 3 dba Avid Telecom, Michael D. Lansky 4 and Stacey Reeves	*Greg Taylor ( <i>Pro Hac Vice</i> <i>motion forthcoming</i> )

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**1. Nature of the Case and Bases of Claims and Defenses**

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Plaintiffs filed this action against Michael D. Lansky, L.L.C., dba Avid Telecom  
7 (Defendant Avid Telecom), Michael D. Lansky, individually and as Chief Executive  
8 Officer (Defendant Lansky),<sup>1</sup> and Stacey Reeves, individually and as Vice President of  
9 Operations and Sales, (collectively “Defendants”) pursuant to the Telemarketing and  
10 Consumer Fraud and Abuse Prevention Act (“Telemarketing Act”), 15 U.S.C. § 6101 *et*  
11 *seq.*; the Telemarketing Sales Rule (“TSR”), 16 C.F.R. § 310 *et seq.*; the Telephone  
12 Consumer Protection Act (“TCPA”), 47 U.S.C. § 227 *et seq.*; the Truth in Caller ID Act  
13 (“TCIA”), 47 U.S.C. § 227(e); and certain state laws that protect consumers against unfair  
14 and deceptive trade practices, including unfair, deceptive, abusive and illegal telemarketing  
15 practices.

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The Plaintiffs’ Complaint alleges that Defendants Avid Telecom, Lansky and  
17 Reeves are in the business of providing Voice over Internet Protocol (“VoIP”) services,  
18 facilitating or initiating robocalls, and/or helping others make robocalls.<sup>2</sup> As a VoIP

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20 <sup>1</sup> The Alter Ego claims against Defendant Lansky were dismissed by Order of Court  
21 [Dkt. 72] issued on July 8, 2024.

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23 <sup>2</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
24 specifically objects to and disputes the allegation that the company facilitates, initiates or  
25 helps others make robocalls. Defendants Lansky and Reeves object to and dispute that, on  
26 an individual basis, they are in any business, including the business of providing VoIP  
27 services, facilitating or initiating robocalls, and/or helping others make robocalls.  
Defendant Reeves also individually objects to and disputes this allegation because her role  
was solely that of an independent contractor with no ownership or control over Avid  
Telecom’s business or operations and thus, in her individual capacity, she is not a provider  
of VoIP services.

1 provider, Avid Telecom uses broadband internet technology to route its customers' calls  
 2 into, and throughout the U.S. telecommunications network.<sup>3</sup> According to Avid Telecom's  
 3 filings with the Federal Communications Commission ("FCC"), Defendants provide VoIP  
 4 services in all U.S. states and territories.<sup>4</sup> As a result of the following activities, Plaintiffs  
 5 seek relief in the form of temporary and permanent injunctions, damages, restitution and  
 6 other compensation on behalf of residents of the States bringing this action, civil penalties,  
 7 attorney's fees and costs, relief under the individual state claims, and such other legal or  
 8 equitable relief as the Court deems just and proper, including a forfeiture of the right for  
 9 Defendants to conduct business.

10 Defendants believe that the allegations in the complaint are not sustainable as a  
 11 matter of fact or law and that certain of the "evidence" presented may have been obtained  
 12 through Improper and/or illegal means. Defendants reserve all rights to pursue relief on  
 13 these bases.

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16       <sup>3</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
 17 specifically objects to and disputes Avid Telecom objects to and disputes the allegation  
 18 that it uses broadband internet technology to route its customers' calls into, and throughout  
 19 the U.S. telecommunications network. Defendant Reeves also individually objects to and  
 20 disputes this allegation because her role was solely that of an independent contractor with  
 21 no ownership or control over Avid Telecom's business or operations and thus, in her  
 22 individual capacity, she does not and is not responsible for any use of broadband internet  
 23 technology to route its customers' calls into, and throughout the U.S. telecommunications  
 24 network.

25       <sup>4</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
 26 specifically objects to and disputes the allegation that its filings with the Federal  
 27 Communications Commission ("FCC"), are properly read to mean that Defendants provide  
 28 VoIP services in all U.S. states and territories. Defendant Reeves also individually objects  
 to and disputes this allegation because her role was solely that of an independent contractor  
 with no ownership or control over Avid Telecom's business or operations and thus, in her  
 individual capacity, she had no responsibility for any decision by Avid Telecom allegedly  
 to provide throughout the U.S. telecommunications network.

## Count I

## Violations of the Telemarketing Sales Rule, 16 C.F.R. §§310.3-310.4

3 The TSR prohibits abusive and deceptive acts or practices by “sellers” or  
4 “telemarketers” and prohibits persons from providing substantial assistance or support to  
5 any seller or telemarketer when that person knows or consciously avoids knowing that the  
6 seller or telemarketer is engaged in any act or practice that violates the TSR. Defendants  
7 deny that they are properly considered to be a “seller” or a “telemarketer” under the TSR.

8       Illegal robocalls that Defendants transmitted onto and across Avid Telecom's  
9 network constitute telemarketing and were created and initiated by sellers and/or  
10 telemarketers within the scope of the TSR.<sup>5</sup> Defendants violated the TSR by providing  
11 substantial assistance or support to sellers and telemarketers that were violating the TSR  
12 by providing services, including but not limited to retail or wholesale voice termination;  
13 dialing software, including the use of a predictive dialer; helping customers with rotating  
14 telephone numbers; telephone number assignment; providing leads for customers to call;  
15 and providing expertise, whether formal or informal, directly or indirectly, to one or more  
16 sellers and/or telemarketers engaged in telemarketing as defined by the TSR.<sup>6</sup>

18       <sup>5</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
19 specifically objects to and disputes the allegation that they “transmitted” any calls onto and  
20 across Avid Telecom’s network. Defendant Reeves also individually objects to and  
21 disputes this allegation because, in her limited role as an independent contractor with no  
ownership or right of control, she has any legal responsibility for any calls transmitted by  
Avid Telecom.

22       <sup>6</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
23 specifically objects to and disputes that they provided substantial assistance or support to  
24 sellers and telemarketers that were violating the TSR by providing services, including but  
25 not limited to retail or wholesale voice termination; dialing software, including the use of  
26 a predictive dialer; helping customers with rotating telephone numbers; telephone number  
27 assignment; providing leads for customers to call; and providing expertise, whether formal  
or informal, directly or indirectly, to one or more sellers and/or telemarketers engaged in  
telemarketing as defined by the TSR. Defendants further deny, as a matter of fact, that  
they provided dialing software, including the use of a predictive dialer; helping customers

## Count II

Failure to Exercise Due Diligence/Know Your Customer in Violation of the TCPA,  
47 U.S.C. § 227 and 47 C.F.R. § 64.1200(n)(3)

To target and eliminate unlawful robocalls, the FCC requires all originating voice service providers (“VSPs”)<sup>7</sup> to know their customers and exercise due diligence in ensuring that their services are not used to originate illegal traffic and further recommends that VSPs exercise caution in granting access to high-volume origination services to ensure that bad actors do not abuse such services.<sup>8</sup> Pursuant to the TCPA, the FCC has authorized and encouraged VSPs to block calls in certain circumstances.<sup>9</sup> VSPs may block calls so that

with rotating telephone numbers; telephone number assignment; providing leads for customers to call; and providing expertise, whether formal or informal, directly or indirectly, to one or more sellers and/or telemarketers engaged in telemarketing as defined by the TSR. Defendant Reeves also individually objects to and disputes this allegation because, in her limited role as an independent contractor with no ownership or right of control, she has any legal responsibility for any of the alleged acts.

<sup>7</sup> An “originating” VSP is the first VSP in the call flow from the calling party’s side of the call. In addition to the generic description of its disputes below, Defendant Avid Telecom specifically objects to and disputes this definition as materially incorrect and misleading to the extent that it is meant to suggest that Avid Telecom is the originator of the call or that it has any relationship with the underlying customer.

<sup>8</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom specifically objects to and disputes this allegation to the extent that the Know Your Customer rules are being retroactively, prior to the effective date of the FCC rule. Defendant Reeves also individually objects to and disputes this allegation because, in her limited role as an independent contractor with no ownership or right of control, she has any legal responsibility for Avid telecom's decisions regarding the application of the Know Your Customer Rules.

<sup>9</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom specifically objects to and disputes this allegation to the extent that it suggests that Avid Telecom had the right to block all calls, including the right to block calls, prior to the effective date of the FCC rule allowing call blocking. Defendant Reeves also individually objects to and disputes this allegation because, in her limited role as an independent contractor with no ownership or right of control, she has any legal responsibility for Avid Telecom's decision whether to block calls.

1 they do not reach a called party when the calls originate from invalid numbers, unallocated  
 2 numbers, unused numbers and numbers associated with inbound-only services, that is, the  
 3 entity to whom the number is assigned does not use it for outbound calling.<sup>10</sup> The TCPA  
 4 also requires VSPs to take affirmative, effective measures to prevent new and renewing  
 5 customers from using their networks to originate illegal calls, including knowing their  
 6 customers and exercising due diligence in ensuring that their services are not used to  
 7 originate illegal traffic.<sup>11</sup>

8 Here, Defendants violated the TCPA by not choosing to regularly, if at all, block  
 9 calls made from telephone numbers that the FCC gave permission to block.<sup>12</sup> Defendants  
 10 also failed to take affirmative, effective measures to prevent new and renewing customers  
 11 from using their network to originate illegal calls, including knowing their customers and  
 12 exercising due diligence in ensuring that their services are not used to originate illegal  
 13 traffic.<sup>13</sup>

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15 <sup>10</sup> See previous footnote.

16 <sup>11</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
 17 specifically objects to and disputes the allegation that the TCPA contains any language that  
 18 prevents “new and renewing customers from using their networks to originate illegal calls”.  
 19 Defendant Reeves also individually objects to and disputes this allegation because, in her  
 20 limited role as an independent contractor with no ownership or right of control, she has any  
 21 legal responsibility for Avid Telecom’s decisions regarding the application of the TCPA  
 22 and Know Your Customer Rules.

23 <sup>12</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
 24 specifically objects to, and disputes Defendants deny that Avid Telecom chose not to  
 25 “regularly, if at all” block calls made from telephone numbers that the FCC gave  
 26 permission to block. Among other things, as the Plaintiffs are aware, Avid Telecom  
 27 blocked in excess of 2.3 calls in 2023 alone. Defendant Reeves also individually objects  
 28 to and disputes this allegation because, in her limited role as an independent contractor  
 with no ownership or right of control, she has any legal responsibility for Avid Telecom’s  
 decisions call blocking.

<sup>13</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
 specifically objects to and disputes that they failed to take affirmative, effective measures  
 to prevent new and renewing customers from using their network to originate illegal calls,

### Count III

Robocalls to Cellular and Residential Telephone Lines in Violation of the TCPA,  
47 U.S.C. §§ 227(b)(1)(A)(iii) and (b)(1)(B)

4 Congress enacted the TCPA because it determined that unwanted prerecorded voice  
5 messages were a greater nuisance and invasion of privacy than live calls and that unwanted  
6 calls delivered to cellular phones could be costly. The TCPA thus prohibits any person  
7 from making calls using an automatic telephone dialing system or an artificial or  
8 prerecorded voice to any cellular telephone with a U.S.-based telephone number, with  
9 exceptions for emergency calls or those made with the prior express consent of the called  
10 party. The TCPA also prohibits any person from initiating any telephone call to any  
11 residential telephone line with a U.S. number using an artificial or prerecorded voice to  
12 deliver a message without the prior express consent of the called party, unless it is an  
13 emergency call or subject to other exemptions.<sup>14</sup>

14 In this matter, Defendants violated the TCPA by engaging in a pattern or practice  
15 of initiating telephone calls to residential and cellular telephone lines using artificial or

17 including knowing their customers and exercising due diligence in ensuring that their  
18 services are not used to originate illegal traffic. Defendant Avid Telecom operated under  
19 a fully compliant Know Your Customer plan on file with the Federal Communications  
20 commission and it acted aggressively, including rejecting large numbers of customer  
21 prospects and terminating other customers who delivered suspicious traffic, to ensure that  
22 its services were only used for lawful purposes. Defendant Reeves also individually objects  
23 to and disputes this allegation because, in her limited role as an independent contractor  
with no ownership or right of control, she has any legal responsibility for Avid Telecom's  
decisions regarding the prevention of new and renewing customers from using their  
network to originate illegal calls.

23       <sup>14</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
24 specifically objects to and disputes the allegation that they made, initiated or caused the  
25 initiation any telephone call in violation of the TCPA. Defendant Reeves also individually  
26 objects to and disputes this allegation because, in her limited role as an independent  
27 contractor with no ownership or right of control, she has any legal responsibility for Avid  
Telecom's decisions regarding the application of the TCPA.

1 prerecorded voices to deliver messages without the prior express consent of the called  
 2 parties. The Defendants also wrongfully engaged in a pattern or practice of initiating or  
 3 causing the initiation of telephone calls that included or introduced advertisements or  
 4 constituted telemarketing to cellular telephone lines using artificial or prerecorded voices  
 5 to deliver messages without the prior express written consent of the called parties.  
 6 Defendants' wrongful conduct harmed consumers in each of the Plaintiffs' jurisdictions.  
 7 The calls would not have connected but for Defendants' decision to allow them to transit  
 8 their network despite having knowledge that many of the calls were delivering prerecorded  
 9 or artificially voiced messages. Defendants knew or consciously avoided knowing that  
 10 many of the calls violated the TCPA.<sup>15</sup>

11 Count IV

12 Calls to Telephone Numbers on the National Do Not Call ("DNC") Registry in Violation  
 13 of the TCPA, 47 U.S.C. § 227(c) and 47 C.F.R. § 64.1200(c)(2)

14 The TCPA recognized that there is a need to protect residential telephone  
 15 subscribers' privacy rights to avoid receiving telephone solicitations to which they object.  
 16 In order to meet this directive, a single national database of telephone numbers was  
 17 compiled of residential subscribers who objected to receiving telephone solicitations.  
 18 Under the TCPA, all persons or entities are prohibited from initiating any telephone

19 \_\_\_\_\_  
 20 <sup>15</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
 21 specifically objects to and disputes the allegation that they allowed any third party to transit  
 22 their network despite having knowledge that many of the calls were delivering prerecorded  
 23 or artificially voiced messages. Defendants also object to and dispute this allegation to the  
 24 extent that it implies that every call containing a pre-recorded message is illegal. Thus, to  
 25 the extent that the complaint does not even attempt to identify which of the referenced calls  
 26 were subject to the recipient's prior consent, the complaint does not establish that Avid  
 27 Telecom ever transited illegal robocalls and it certainly does not establish that Defendants  
 "knew or consciously avoided knowing" that any of the calls violated the TCPA. Defendant  
 Reeves also individually objects to and disputes this allegation because, in her limited role  
 as an independent contractor with no ownership or right of control, she has any legal  
 responsibility for Avid Telecom's decisions regarding the application of the TCPA.

1 solicitation to a residential telephone subscriber who has registered their telephone number  
 2 on the National DNC Registry, which registrations must be honored indefinitely, or until  
 3 the registration is cancelled by the subscriber.

4 Defendants violated the TCPA by engaging in a pattern or practice of initiating  
 5 telephone solicitations to residential subscribers in the Plaintiffs' jurisdictions who have  
 6 registered their telephone numbers on the National DNC Registry. Defendants knew or  
 7 consciously avoided knowing that it transmitted calls to residential subscribers on the  
 8 National DNC Registry.<sup>16</sup>

9 Count V

10 Violations of the Truth in Caller ID Act, 47 U.S.C. § 227(e)

11 Section (e) of 47 U.S.C. § 227 known as the Truth in Caller ID Act prohibits any  
 12 person with the intent to defraud, cause harm or otherwise obtain anything of value from  
 13 knowingly causing, directly or indirectly, any caller identification service to transmit  
 14 misleading or inaccurate caller identification information in connection with any voice or  
 15 text messaging service.

16 Defendants violated the Truth in Caller ID Act by knowingly causing the caller  
 17 identification services of the recipients of their call traffic with spoofed<sup>17</sup> phone numbers

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18 <sup>16</sup> In addition to the generic description of its disputes below, Defendant Avid Telecom  
 19 specifically objects to and disputes the allegation that they initiated an telephone calls, let  
 20 alone that they initiated telephone solicitations to residential subscribers in the Plaintiffs'  
 21 jurisdictions who have registered their telephone numbers on the National DNC Registry  
 22 or that they knew or consciously avoided knowing that they transmitted calls to residential  
 23 subscribers on the National DNC Registry. In addition, Avid Telecom will establish that  
 24 many of the telephone numbers on the DNC Registry—which is limited to residential  
 25 numbers—are actually owned or controlled by business entities who work with the  
 26 Industry Traceback Group. Calls to those numbers do not violate DNC regulations.  
 Defendant Reeves also individually objects to and disputes this allegation because, in her  
 limited role as an independent contractor with no ownership or right of control, she has any  
 legal responsibility for Avid Telecom's decisions regarding the compliance with the  
 requirements of the DNC Registry.

27 <sup>17</sup> The practice of “spoofing” is used deceptively by scammers to manipulate the caller  
 28

1 to transmit misleading or inaccurate caller identification information.<sup>18</sup> Defendants knew  
 2 or consciously avoided knowing that they accepted and profited from illegal robocalls with  
 3 misleading or inaccurate spoofed phone numbers, which sought to defraud, cause harm, or  
 4 wrongfully obtain things of value from the call recipients.<sup>19</sup>

5 Counts VI – XXIII

6 State Claims alleging unfair and deceptive trade practices, including unfair, deceptive,  
 7 abusive and illegal telemarketing practices.

8 See Exhibit A: Plaintiffs' List of Counts and Elements of Proof.

9 **2. Elements of Proof**

10 See Exhibit A: Plaintiffs' List of Counts and Elements of Proof.

11 See Exhibit B: Defendants' Elements of Proof for Affirmative Defenses.

12 **3. Facts and Legal Issues in Dispute**

13 As a threshold matter, Plaintiffs note that their best reading of Defendants' Answer  
 14 to the Complaint indicates two types of "disputes." The first type concerns claims that the  
 15 Defendants are not able to admit or deny certain averments because certain terms or phrases  
 16 have not been defined with enough specificity.

17 The second type consists of genuine disputes as to fact and/or law. The parties are  
 18 of the position that all averments of fact and law, unless admitted to in the Answer, remain  
 19 in dispute. Although the parties are not in complete agreement regarding relevance and  
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21 identification system so that it appears that their calls are from legitimate phone numbers.

22 <sup>18</sup> In addition to the generic description of its disputes below, Defendants objects to and  
 23 disputes the allegation that they knowingly caused or consciously avoided knowing the  
 24 caller identification services of the recipients of their call traffic with spoofed phone  
 25 numbers to transmit misleading or inaccurate caller identification information. Defendant  
 26 Reeves also individually objects to and disputes this allegation because, in her limited role  
 27 as an independent contractor with no ownership or right of control, she has any legal  
 28 responsibility for Avid Telecom's decisions regarding the application of the FCC's  
 spoofing rules.

<sup>19</sup> See footnote 18.

1 materiality on all matters, these disputes have been set forth in general terms below. Where  
2 necessary, Plaintiffs' and Defendants' respective positions have been set out separately.  
3 To this point, the parties have been unable to narrow the following disputes by stipulation  
4 or motion.

5 Defendants object to and dispute Plaintiffs' characterization of Defendants'  
6 disputes. The language of the Answer, as supplemented herein, speaks for itself.

7 Disputes of Fact and/or Law

8 A. The nature of the trade or commerce in which Defendants engaged,  
9 including:

10 i. The products and/or services which Defendants provided  
11 and/or advertised to their customers and the extent to which  
12 Defendants were involved or provided assistance to their customers  
13 in the use of such products and/or services; and  
14 ii. Whether Defendants engaged in trade or commerce in each  
15 Plaintiff's respective jurisdictions at all relevant times.

16 B. Disputes concerning the individual liability of Defendants Lansky  
17 and/or Reeves, including:

18 i. The scope of Defendant Lansky's authority over and  
19 participation in the acts or practices of Avid Telecom alleged in the  
20 Complaint.  
21 ii. The scope of Defendant Reeves' authority over and  
22 participation in the acts or practices of Avid Telecom alleged in the  
23 Complaint.  
24 iii. The existence and scope of Defendant Reeves' authority over  
25 the acts or practices of Avid Telecom alleged in the Complaint.  
26 iv. Whether Defendant Reeves was an employee or independent  
27 contractor of Defendant Avid Telecom.

v. Whether Defendant Reeves was an agent of Defendant Avid Telecom.<sup>20</sup>

vi. Whether an independent contractor can be held liable for the acts of the principal party.

vii. Whether an independent contractor can be held liable under the TCPA for the acts of the principal party.

C. Whether the Defendants knew or were consciously avoiding knowing that they were providing substantial assistance or support to sellers or telemarketers that were engaged in telemarketing while Defendants knew or were consciously avoiding knowing that the seller or telemarketer was engaged in acts or practices that violated TSR sections 310.3(a), (c) or (d), or 310.4.

D. Whether the Defendants complied with their obligation under 47 C.F.R. § 64.1200(n)(3) to take affirmative, effective measures to prevent new and renewing customers from using the network to originate illegal calls, including knowing its customers and exercising due diligence in ensuring that its services are not used to originate illegal traffic.

E. Whether the Federal Communications Commission has determined that Avid Telecom ever transited illegal calls.<sup>21</sup>

F. Whether the Federal Communications Commission delegated the authority to determine a call's legality to the Industry Traceback Group.<sup>22</sup>

<sup>20</sup> Defendants dispute that the issue of Ms. Reeves status as an “agent” of Avid Telecom—as opposed to an employee or independent contractor—is before the Court as it was not pled as such by Plaintiffs in the complaint.

<sup>21</sup> Plaintiffs did not object to the inclusion of this dispute but do not believe that an FCC determination that Avid Telecom ever transited illegal calls is necessary to the ultimate determination of liability in this action.

<sup>22</sup> Plaintiffs did not object to the inclusion of this dispute but do not believe that whether or not the FCC delegated authority to the Industry Traceback Group to determine a call's

1                   G. Whether the issuance of a traceback by the Industry Traceback Group  
 2 constitutes evidence that the subject call is illegal.

3                   H. Whether the content of the traceback notices and related  
 4 communications sent by the Industry Traceback Group constitute sufficient  
 5 evidence to provide knowledge of the transmission of illegal robocalls.<sup>23</sup>

6                   I. Whether complaints, notices, and related communications about call  
 7 traffic from sources other than the Industry Traceback Group constitute sufficient  
 8 evidence to provide knowledge of the transmission of illegal robocalls.<sup>24</sup>

9                   J. Whether the FCC lawfully delegated authority to the Industry  
 10 Traceback Group—which is comprised of companies that compete directly with  
 11 Avid Telecom—as the neutral third party. If not, whether the Industry Traceback  
 12 Group’s issuance of tracebacks to Avid Telecom and other actions are invalid or  
 13 unlawful.<sup>25</sup>

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16 legality is necessary to the ultimate determination of liability in this action.

17                   <sup>23</sup> It is Defendants’ position that the issuance of a traceback is nothing more than a  
 18 request to determine the end-to-end call path, and it is not a finding that a call was illegal.  
 19 Thus, Defendants do not believe that the content of traceback notices and related  
 20 communications sent by the Industry Traceback Group constitute sufficient evidence to  
 provide knowledge of the transmission of illegal robocalls.

21                   <sup>24</sup> It is Defendants’ position that all such complaints, notices, and related  
 22 communications came after the call was transited—thus making it impossible for  
 23 Defendants to know or prevent that call in real time. Thus, Defendants do not believe that  
 24 complaints, notices, and related communications about call traffic from sources other than  
 the Industry Traceback Group constitute sufficient evidence to provide knowledge of the  
 transmission of illegal robocalls.

25                   <sup>25</sup> Plaintiffs did not object to the inclusion of this dispute but because Plaintiffs’  
 26 Complaint does not solely rely on tracebacks from the Industry Traceback Group to  
 27 establish Defendants’ violative conduct, Plaintiffs do not believe this dispute to be  
 determinative of liability in this action.

1                   K.    Whether the Industry Traceback Group issued tracebacks in a lawful  
 2 and non-discriminatory manner.<sup>26</sup>

3                   L.    Whether the TCPA sets forth a standard for the number of tracebacks  
 4 that are sufficient to put a carrier on notice that it is transiting illegal robocalls and,  
 5 if so, the precise number of tracebacks required to establish that knowledge.<sup>27</sup>

6                   M.    Whether the TCPA sets forth a percentage of a carrier's total calls that  
 7 that are associated with a traceback that is sufficient to put a carrier on notice that it  
 8 is transiting illegal calls and, if so, the precise percentage of calls required to  
 9 establish that knowledge.<sup>28</sup>

10                  N.    Whether the FCC has implemented a regulation(s) that set(s) forth a  
 11 standard for the number of tracebacks that are sufficient to put a carrier on notice  
 12 that it is transiting illegal robocalls and, if so, the precise number of tracebacks  
 13 required to establish that knowledge.<sup>29</sup>

14                  O.    Whether the FCC has implemented a regulation that sets forth a  
 15 percentage of a carrier's total calls that that are associated with a traceback that is

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16                  <sup>26</sup> Plaintiffs did not object to the inclusion of this dispute but because Plaintiffs'  
 17 Complaint does not solely rely on tracebacks from the Industry Traceback Group to  
 18 establish Defendants' violative conduct, Plaintiffs do not believe this dispute to be  
 19 determinative of liability in this action.

20                  <sup>27</sup> Plaintiffs do not dispute that the TCPA does not set forth a precise number of  
 21 tracebacks required to establish knowledge that a provider is transiting illegal robocalls but  
 22 Plaintiffs do not believe Defendants' characterization of this dispute to be determinative of  
 23 liability in this action.

24                  <sup>28</sup> Plaintiffs do not dispute that the TCPA does not set forth a specific percentage of  
 25 calls associated with tracebacks that would be sufficient to establish knowledge that a  
 26 provider is transiting illegal robocalls. but Plaintiffs do not believe Defendants'  
 27 characterization of this dispute to be determinative of liability in this action.

28                  <sup>29</sup> Plaintiffs do not dispute that the FCC Regs do not set forth a precise number of  
 29 tracebacks required to establish knowledge that a provider is transiting illegal robocalls but  
 26 Plaintiffs do not believe Defendants' characterization of this dispute to be determinative of  
 27 liability in this action.

1 sufficient to put a carrier on notice that it is transiting illegal calls and, if so, the  
 2 precise percentage of calls required to establish that knowledge.<sup>30</sup>

3 P. Whether Avid Telecom provided transmission facilities for the  
 4 carriage of interstate traffic.

5 Q. Whether Avid Telecom's transmission facilities carried illegal traffic.

6 R. Whether Avid Telecom initiated any of the calls alleged to be illegal.

7 S. Whether any evidence presented by the Plaintiffs was obtained  
 8 through illegal means, including but not limited to:

- 9 i. illegal recording of voice calls without proper consent;
- 10 ii. improper association of business telephone numbers with the Do  
 11 Not Call list;
- 12 iii. improper or illegal scraping of consumer voice mail data; and/or
- 13 iv. issuance of subpoenas prior to or following the filing of the  
 14 complaint without notice to Defendants.

15 T. Whether evidence referenced in the Complaint was obtained through  
 16 means that were or are illegal or improper in one or more states that would  
 17 necessitate the preclusion of any use of that evidence.

18 U. Whether one or more of the Plaintiffs who participated in the filing of  
 19 the Complaint against Defendants knew or should have known that evidence  
 20 referenced in that Complaint may have been gathered illegally and/or in violation  
 21 of the Federal Rules of Civil Procedure.

22 V. Whether evidence that was obtained through illegal means is  
 23 admissible.

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24  
 25 <sup>30</sup> Plaintiffs do not dispute that the FCC Regs do not set forth a specific percentage of  
 26 calls traced back that would be sufficient to establish knowledge that a provider is transiting  
 27 illegal robocalls. but Plaintiffs do not believe Defendants' characterization of this dispute  
 28 to be determinative of liability in this action.

1                   W. Whether any rules, regulations and/or laws governing the  
 2 transmission of calls are being applied in a retroactive, *ex post facto*, manner.

3                   X. Whether Defendants had knowledge of the illegal use of their  
 4 transmission facilities and failed to take steps to prevent that illegal use within the  
 5 scope of *In the Matter of Rules & Regs. Implementing the Tel. Consumer Prot.*  
 6 *Act of 1991*, 7 F.C.C. Rcd. 8752, ¶54 (1992).

7                   Y. Whether the Tel. Consumer Prot. Act of 1991, 7 F.C.C. Rcd. 8752,  
 8 ¶54 (1992), applies to the conduct of Defendant Lansky in his individual capacity.

9                   Z. Whether the Tel. Consumer Prot. Act of 1991, 7 F.C.C. Rcd. 8752,  
 10 ¶54 (1992), applies to the conduct of Defendant Reeves in her individual capacity.

11                  AA. Whether Defendants were sufficiently involved in making or  
 12 initiating illegal calls within the scope of *Rules & Regs. Implementing the Tel.*  
 13 *Consumer Prot. Act of 1991*, 30 FCC Red. 7961, 7890 (2015).

14                  BB. Whether the Attorneys General of the Plaintiffs have the authority to  
 15 participate in the Complaint under applicable state and federal laws and/or  
 16 regulations.

17                  CC. Whether Defendant Lansky is individually liable for the conduct  
 18 alleged in the Complaint.

19                  DD. Whether Defendant Reeves is individually liable for the conduct  
 20 alleged in the Complaint.

21                  EE. Whether each of the statutory and/or regulatory provisions, both  
 22 Federal and State, as set forth in Counts I through XXIII in the Complaint are  
 23 applicable to each Defendant.

24                  FF. Whether Avid Telecom has telecommunications facilities in any  
 25 Plaintiff state.<sup>31</sup>

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26                  <sup>31</sup> Plaintiffs did not object to the inclusion of this dispute but do not believe that a  
 27 physical location of telecommunications facilities in any Plaintiff State is necessary to the  
 28

1                   GG. Whether any call has been terminated by Avid Telecom in any  
 2 Plaintiff state.<sup>32</sup>

3                   HH. Whether, pursuant to the Defendants' alleged legal violations,  
 4 Plaintiffs are entitled to the relief set forth in the Prayer for Relief in the Complaint.

5                   II. Whether there is the absence of any factual or legal basis for the  
 6 allegation(s) in the Complaint and relief sought in the Complaint's Prayer for Relief  
 7 to warrant the reimbursement of Defendants' attorneys' fees and costs and/or other  
 8 relief.

9                   4. This Court has subject matter jurisdiction over this case pursuant to 28 U.S.C.  
 10 §§ 1331, 1337(a), 1335, and has pendent jurisdiction over the state law claims pursuant to  
 11 28 U.S.C. § 1337. The Arizona District Court is the appropriate venue.

12                   5. All parties have been served and have filed an answer.

13                   6. All named parties are subject to the Court's jurisdiction.

14                   7. Plaintiffs and Defendants anticipate bringing one or more motions on issues  
 15 that may be resolved in whole or in part pre-trial. The parties intend to bring summary  
 16 judgment motions on claims which can be disposed of prior to trial.

17                   8. The parties do not consent to assignment of the case to a Magistrate Judge.  
 18 Further, the case is not suitable for reference to arbitration or to a special master.

19                   9. There are no pending related cases in this Court that allege any claims similar  
 20 to this matter. However, on December 14, 2022, Defendants Lansky and Avid Telecom  
 21 filed a complaint in this Court against a third-party alleging claims that included  
 22 defamation as to Defendant Avid Telecom and false light invasion of privacy as to  
 23

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24                   ultimate determination of liability in this action.

25                   <sup>32</sup> Plaintiffs did not object to the inclusion of this dispute but because Plaintiffs'  
 26 Complaint does not allege that Defendant Avid Telecom acted as the terminating provider  
 27 (i.e., the call recipient's telecom provider) for any of the alleged violative calls, Plaintiffs  
 28 do not believe this dispute to be determinative of liability in this action.

1 Defendant Lansky. *See Avid Telecom LLC, et al. v. Frankel, et al.*, No. 4:22-cv-00558 (D.  
 2 Ariz. 2022).

3 Plaintiffs' Position: Defendants Lansky and Avid Telecom—both plaintiffs in that  
 4 proceeding—requested that the matter be voluntarily dismissed. On January 12, 2024, the  
 5 Clerk entered an order dismissing the matter with prejudice. Plaintiffs bring this closed  
 6 matter to the Court's attention as certain pleadings, evidence or fact witnesses may be  
 7 relevant in this action.

8 Defendants' Position: Due to the crippling economic effects of the public filing of  
 9 the instant Complaint, which has forced Avid Telecom out of business, Defendants Lansky  
 10 and Avid Telecom—both plaintiffs in that proceeding—lacked the financial resources to  
 11 pursue that litigation and, thus, requested that the matter be voluntarily dismissed, which  
 12 was effectuated on January 12, 2024. By that point, Lansky and Avid Telecom successfully  
 13 defeated two separate motions to dismiss, and the case was proceeding to trial. Defendants  
 14 bring this closed matter to the Court's attention because certain pleadings, evidence or fact  
 15 witnesses from that litigation may be relevant to this action – specifically, evidence and  
 16 facts regarding the illegal procurement of certain “evidence” used by the Plaintiffs in this  
 17 case.

18 10. The parties will exchange their initial Fed. R. Civ. P. 26(a)(1) disclosures and  
 19 file the Notice of Initial Disclosure by September 13, 2024.

20 11. The parties discussed changes to the limitations on discovery imposed by  
 21 Fed. R. Civ. P. 26(b)(2) and were not able to reach an agreement. Plaintiffs suggest the  
 22 changes as set out in Item 12 below.

23 12. **Scope of Discovery**

24 Any discovery requests must be proportional to the needs of the case as required by  
 25 Fed. R. Civ. P. 26(b)(1). The parties agree to cooperate in good faith during discovery, in  
 26 the exchange of reports, and the scheduling of necessary depositions.

27

28

1       The parties agree that discovery and court filings will be served on any other party  
2 via electronic mail to counsel. Except for materials, documents, and information as to  
3 which electronic transmission is impracticable, the parties may respond to any discovery  
4 request via electronic mail to counsel.

5       The parties do not believe formal phasing of discovery is required in this case and  
6 will work together cooperatively to focus discovery on the key issues identified in the  
7 Complaint and Answer.

8       Plaintiffs' Position: Discovery topics shall include seeking party, non-party, and  
9 expert discovery on all subjects alleged in the Complaint, as well as any defenses and  
10 counterclaims. Although the Complaint involves many Plaintiffs, the relevant evidence to  
11 prove the federal claims, Counts I through V, will be largely the same evidence from the  
12 same sources for all Plaintiffs. This same evidence to prove the federal claims will similarly  
13 be largely relied upon to establish the elements of most state claims alleged. Additionally,  
14 the investigative, pre-litigation work and resources in this matter was conducted by a small  
15 group of the Plaintiff States for the benefit of all Plaintiffs. Moreover, the evidence that  
16 has been analyzed to date, and that will be requested and analyzed during discovery, to  
17 establish liability and harm to Plaintiffs will be conducted by a limited number of shared  
18 expert witnesses who will conduct analyses of the same set of data and evidence to  
19 determine violations for all Plaintiffs.

20       Defendants' Position: Discovery topics shall include seeking party, non-party, and  
21 expert discovery on all subjects alleged in the Complaint, as well as any defenses and  
22 counterclaims. As all Plaintiffs are party to the federal law claims, Defendant shall have  
23 the right to propound discovery on all Plaintiffs, not just those in lead group or those  
24 Plaintiffs which offered specific state law claims. Notwithstanding any common or similar  
25 claims made by the Plaintiffs, any limits on the scope of discovery (e.g., the number of  
26 interrogatories or document requests) shall be applied on a party-by-party basis such that  
27 Defendants shall each be entitled to propound separate discovery to the permitted limit on  
28 each Plaintiff.

1           *Limitations on Discovery:* The parties discussed modifications to the limitations on  
 2 discovery set forth in the Federal Rules of Civil Procedure and were unable to reach an  
 3 agreement.

4           Plaintiffs' Position: Due to the fact that the relevant evidence to prove Plaintiffs  
 5 federal claims and many state claims is largely the same, the Plaintiff's propose the  
 6 following modifications:

7           Interrogatories limitations are modified to 50 per side.

8           Requests for admission are modified to 50 per side.

9           The parties may seek additional discovery limitations or extensions through later  
 10 stipulation of the parties or motion to the Court as necessary.

11           Depositions: The parties discussed but could not reach an agreement as to the  
 12 limitation on the number of depositions.

13           The Plaintiffs propose the following modifications: 50 depositions per side.

14           The parties agree that depositions are not to extend beyond seven (7) hours  
 15 in one day, unless by agreement of the parties.

16           Defendants' Position: The issue of proportionality must be considered in light of  
 17 the specific circumstances of his case. Defendants are two individuals and a sole  
 18 proprietorship, representing only two-party fact witnesses. Defendants are required to rebut  
 19 allegations brought by forty-nine (49) Attorneys General, and specific allegations and  
 20 claims by eleven (11) States. Each of those States will presumably have one or more  
 21 witness(es) to support their factual allegations. The Complaint also reference(s) dozens of  
 22 other persons and organizations with alleged knowledge, from whom Plaintiffs have  
 23 apparently gathered facts and documents. These include various Attorneys General,  
 24 numerous persons who worked (both directly and indirectly) for the (USTelecom) Industry  
 25 Traceback Group, and numerous persons who work for the various other carriers that are  
 26 referenced in the Complaint and/or in the related litigation styled *Avid Telecom LLC, et al.*  
 27 *v. Frankel, et al.*, No. 4:22-cv-00558 (D. Ariz. 2022). On information and belief, Plaintiffs  
 28 also received data from other third parties, some of which have not been disclosed.

1 Fairness dictates that, due to the number of Plaintiffs and the number of persons from whom  
 2 the Plaintiffs have obtained “evidence,” Defendants will likely need to take many more  
 3 depositions than Plaintiffs just to obtain the information that the Plaintiffs already have,  
 4 and that is necessary to understand the existence or absence of any factual basis for the  
 5 Plaintiffs’ claims. The same is true for other categories of discovery (e.g., interrogatories  
 6 and document requests).

7 The Plaintiffs elected to make this a nationwide lawsuit, brought by forty-nine (49)  
 8 Attorneys General. They did so to maximize the public scale of the Complaint, its crushing  
 9 economic impact, and the difficulty to Defendants in mounting a comprehensive defense.  
 10 In this context, “proportionality” requires that the number of depositions be calculated “per  
 11 party” and not “per side.” Limiting the three humble Defendants to the number of  
 12 depositions sought by the forty-nine Plaintiffs would be fundamentally unfair and  
 13 materially prejudicial.

14 Interrogatories limitations are modified to *50 per party*.

15 Requests for admission are modified to *50 per party*.

16 Document Requests: No present limit. Any limit calculated on a per party  
 17 basis.

18 The parties may seek additional discovery limitations or extensions through later  
 19 stipulation of the parties or motion to the Court as necessary.

20 *Depositions:* The parties discussed but could not reach an agreement as to  
 21 the limitation on the number of depositions.

22 Plaintiff proposal for fifty (50) depositions per side would mean that  
 23 Defendants would only get one deposition per Plaintiff, while Plaintiffs  
 24 would get more than sixteen depositions per Defendant. That imbalance is  
 25 facially unfair. It is also prejudicial, as Defendants plainly need to take  
 26 multiple depositions of at least the eleven State Plaintiffs asserting specific  
 27 claims. To address this imbalance and to ensure that Defendants are treated  
 28 fairly and have the opportunity for full and complete discovery, the

1 Defendants propose the following modifications:

2 Plaintiffs: A total of thirty (30) depositions (*i.e.*, one for each  
3 Defendant, plus 27 more).

4 Defendants: A total of seventy-five (75) depositions (*i.e.*, one for each  
5 Plaintiff, plus 25 more).

6 The parties agree that depositions are not to extend beyond seven (7) hours in any  
7 one day but may exceed one day either by agreement of the parties or order of the Court.  
8 Given the extraordinary scale of the “evidence” referenced in the Complaint that Plaintiffs  
9 have secured over years of investigation, Defendants expect they will require more than  
10 seven (7) hours in one day for many of their depositions.

11 13. The parties intend to request the production of electronically stored  
12 information (ESI). The parties will identify the method and form of production for any  
13 electronically stored information in connection with their individual discovery requests as  
14 set forth in Fed. R. Civ. P. 33 and 34. The parties shall meet and confer regarding any  
15 specific ESI needs and disputes before seeking involvement of the Court and will submit  
16 an ESI plan to the Court’s for review and approval on or before September 13, 2024.

17 14. The parties shall submit a proposed protective order setting forth procedures  
18 governing assertions of privilege or other applicable protection from disclosure for the  
19 Court’s review on or before September 13, 2024. The parties agree to confer prior to  
20 bringing any attorney-client privilege, work product, or other discovery issues or disputes  
21 to the Court.

22 15. The parties propose the following case schedule:

23 a. Initial disclosures required by Fed. R. Civ. P. 26(a)(1): September 13,  
24 2024.

25 b. Addition of parties or amending complaint by May 1, 2025;

26 c. Discovery Completed by January 21, 2026;

27 • The parties believe that, due to the voluminous facts and the  
28 complexity of the legal issues in the case, including the significant

number of witnesses, more than 180 days will be needed for discovery.

d. Disclosure of initial expert testimony and rebuttal expert testimony pursuant to Fed. R. Civ. P. 26(a)(2):

- Disclosure of initial expert testimony: June 20, 2025
- Rebuttal Expert Testimony: 5 months later: November 20, 2025

The parties agree rebuttal expert testimony to be completed 5 months after the disclosure of initial expert testimony for no more than 3 experts. In the event that either party submits initial expert testimony beyond 3 experts, additional time for the filing of rebuttal expert reports will be negotiated in good faith by the parties.

e. Disclosure of witness list: 21 days prior to trial

f. Filing dispositive motions: 60 days after the close of discovery:  
March 23, 2026

g. Filing pre-trial statements: 30 days before trial

h. Filing of settlement status report: 21 days after the end of discovery:  
February 11, 2026

20        16. Plaintiffs and Defendants each anticipate requiring evidentiary hearings,  
21 such as a hearing to exclude unqualified expert or scientific evidence under the *Daubert*  
22 standard, to be held sometime after expert reports are exchanged. Plaintiffs and Defendants  
23 may also request evidentiary hearings concerning the admissibility of consumer complaints  
24 as well as statements from other third parties under the residual exception of the hearsay  
25 rule pursuant to Fed. R. Evid. 807 and of summaries prepared pursuant to Fed. R. Evid.  
26 1006. Defendants also expect to request one or more evidentiary hearings regarding the  
27 admissibility of evidence.

1       17. The parties anticipate being prepared for trial within 21 to 22 months of filing  
2 this Report. The Plaintiffs anticipate needing 25 trial days. If the parties can agree to  
3 stipulate to the authenticity of records produced by record custodians, the Plaintiffs believe  
4 the estimated length of the trial can be shortened to 10 to 15 days. Each party reserves the  
5 right to seek an extension of the trial date based on the progress of discovery, including the  
6 cooperation of third-party witnesses.

7       18. The Plaintiffs have requested a jury trial. Defendants object to a jury trial  
8 and request the case be heard by the judge alone.

9       19. The parties engaged in settlement discussions after the Complaint was filed  
10 but were unable to reach an agreement. The parties have agreed to resume settlement  
11 discussions after the Case Management Conference. The parties do not feel it would be  
12 productive at this time to have a settlement conference with the Court but will keep the  
13 Court informed if the Court could help in the future.

14       20. The parties believe the case presents unusual, difficult, or complex factors  
15 which warrant the highly technical subject matter of this case being placed on the complex  
16 track for case management purposes pursuant to LRCiv 16.

17       21. Other than what was set out in Item 17 above, the parties do not have any  
18 suggestions for shortening or simplifying the case.

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22       *The remainder of this page is intentionally left blank.*

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1 RESPECTFULLY SUBMITTED this 15th day of August, 2024.  
2

3 **FOR THE STATE OF ARIZONA:**

4 KRISTIN K. MAYES  
5 Attorney General for the State of Arizona  
6

7 /s/ Alyse Meislik  
8 ALYSE MEISLIK  
9 DYLAN JONES  
10 Assistant Attorneys General  
11 *Attorneys for the State of Arizona*

12 **FOR THE STATE OF NORTH  
13 CAROLINA:**

14 JOSHUA H. STEIN  
15 Attorney General for the State of North  
16 Carolina

17 /s/ Tracy Nayer  
18 TRACY NAYER  
19 ASA C. EDWARDS IV  
20 Special Deputy Attorneys General  
21 DANIELLE WILBURN ALLEN  
22 Assistant Attorney General  
23 *Attorneys for the State of North Carolina*

24 **FOR THE STATE OF INDIANA:**

25 TODD ROKITA  
26 Attorney General for the State of Indiana  
27

28 /s/ Douglas S. Swetnam  
29 DOUGLAS S. SWETNAM  
30 Deputy Attorney General  
31 *Attorney for the State of Indiana*

32 **FOR THE STATE OF OHIO:**

33 DAVE YOST  
34 Attorney General for the State of Ohio  
35

36 /s/ Erin Leahy  
37 ERIN B. LEAHY  
38 Senior Assistant Attorney General  
39 *Attorney for the State of Ohio*

40 *Lead Counsel for Plaintiffs*

1 **FOR DEFENDANTS MICHAEL D. LANSKY, L.L.C., DBA AVID TELECOM,**  
2 **MICHAEL D. LANSKY AND STACEY REEVES:**

3 /s/ Neil S. Ende  
4 Neil S. Ende  
5 Technology Law Group, LLC  
5335 Wisconsin Avenue, NW, Suite 440  
5 Washington, DC 20015  
6 [nende@tlgdc.com](mailto:nende@tlgdc.com)  
7 Phone: (202) 895-1707  
7 Fax: (202) 478-5074

8  
9 /s/ Greg Taylor  
10 Greg Taylor  
10 (*Pro Hac Vice pending*)  
11 Technology Law Group, LLC  
12 5335 Wisconsin Avenue, NW, Suite 440  
12 Washington, DC 20015  
13 [gtaylor@tlgdc.com](mailto:gtaylor@tlgdc.com)  
14 Phone: (202) 895-1707  
14 Fax: (202) 478-5074

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16  
17  
18  
19  
20  
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25  
26  
27  
28

## LIST OF PLAINTIFFS' COUNSEL

2 Alyse Meislik (AZ No. 024052)  
3 Dylan Jones (AZ Bar No. 034185)  
4 Assistant Attorneys General  
5 Arizona Attorney General's Office  
6 2005 North Central Avenue  
7 Phoenix, AZ 85004  
8 Phone: (602) 542-3725  
Fax: (602) 542-4377  
[consumer@azag.gov](mailto:consumer@azag.gov)  
[alyse.meislik@azag.gov](mailto:alyse.meislik@azag.gov)  
9 Attorneys for Plaintiff State of Arizona

10 Douglas S. Swetnam (IN Bar No. 15860-  
49)  
11 Deputy Attorney General  
12 Office of the Indiana Attorney  
13 General Todd Rokita  
14 Indiana Govt. Center South, 5th Fl.  
302 W. Washington St.  
15 Indianapolis, IN 46204-2770  
Phone: (317) 232-6294  
16 Fax: (317) 232-7979  
[douglas.swetnam@atg.in.gov](mailto:douglas.swetnam@atg.in.gov)

17 | Attorney for Plaintiff State of Indiana

Tracy Nayer (NC Bar No. 36964)  
Asa C. Edwards IV (NC Bar No. 46000)  
Special Deputy Attorneys General  
Danielle Wilburn Allen (NC Bar  
No. 58141)  
Assistant Attorney General  
North Carolina Department of Justice  
Consumer Protection Division  
P.O. Box 629  
Raleigh, North Carolina 27602  
Phone: (919) 716-6000  
Fax: (919) 716-6050  
[tnayer@ncdoj.gov](mailto:tnayer@ncdoj.gov)  
[aedwards@ncdoj.gov](mailto:aedwards@ncdoj.gov)  
[dwilburnallen@ncdoj.gov](mailto:dwilburnallen@ncdoj.gov)  
*Attorneys for Plaintiff State of North  
Carolina*

Erin B. Leahy (OH Bar No. 0069509)  
Senior Assistant Attorney General  
Office of Attorney General Dave Yost  
30 East Broad Street, 14th Fl.  
Columbus, OH 43215  
Phone: (614) 752-4730  
Fax: (866) 768-2648  
[Erin.Leahy@OhioAGO.gov](mailto:Erin.Leahy@OhioAGO.gov)  
*Attorney for Plaintiff State of Ohio*

*Lead Counsel for Plaintiffs*

1 Lindsay D. Barton (AL Bar No. 1165-  
 2 G00N)  
 3 Robert D. Tambling (AL Bar No. 6026-  
 4 N67R)  
 5 Assistant Attorneys General  
 6 Office of the Alabama Attorney General  
 7 501 Washington Avenue  
 8 Montgomery, Alabama 36130  
 9 Phone: (334) 353-2609 (Barton)  
 10 (334) 242-7445 (Tambling)  
 11 Fax: (334) 353-8400  
 12 [Lindsay.Barton@AlabamaAG.gov](mailto:Lindsay.Barton@AlabamaAG.gov)  
 13 [Robert.Tambling@AlabamaAG.gov](mailto:Robert.Tambling@AlabamaAG.gov)  
 14 *Attorneys for Plaintiff State of Alabama*  
 15 Amanda Wentz (AR Bar No. 2021066)  
 16 Assistant Attorney General  
 17 Office of Attorney General Tim Griffin  
 18 323 Center St., Ste. 200  
 19 Little Rock, AR 72201  
 20 Phone: (501) 682-1178  
 21 Fax: (501) 682-8118  
 22 [Amanda.wentz@arkansasag.gov](mailto:Amanda.wentz@arkansasag.gov)  
 23 *Attorney for Plaintiff State of Arkansas*  
 24  
 25  
 26  
 27  
 28

1 Nicklas A. Akers (CA Bar No. 211222)  
 2 Senior Assistant Attorney General  
 3 Bernard A. Eskandari (CA Bar No.  
 4 244395)  
 5 Supervising Deputy Attorney General  
 6 Timothy D. Lundgren (CA Bar No.  
 7 254596)  
 8 Rosailda Perez (CA Bar No. 284646)  
 9 Michelle Burkart (CA Bar No. 234121)  
 10 Deputy Attorneys General  
 11 Office of the California Attorney General  
 12 300 S. Spring St., Suite 1702  
 13 Los Angeles, CA 90013  
 14 Phone: (415) 510-3364 (Akers)  
 15 (213) 269-6348 (Eskandari)  
 16 (213) 269-6355 (Lundgren)  
 17 (213) 269-6612 (Perez)  
 18 (213) 269-6357 (Burkart)  
 19 Fax: (916) 731-2146  
 20 [nicklas.akers@doj.ca.gov](mailto:nicklas.akers@doj.ca.gov)  
 21 [bernard.eskandari@doj.ca.gov](mailto:bernard.eskandari@doj.ca.gov)  
 22 [timothy.lundgren@doj.ca.gov](mailto:timothy.lundgren@doj.ca.gov)  
 23 [rosailda.perez@doj.ca.gov](mailto:rosailda.perez@doj.ca.gov)  
 24 [micelle.burkart@doj.ca.gov](mailto:micelle.burkart@doj.ca.gov)  
 25 *Attorneys for Plaintiff People of the State*  
 26 *of California*  
 27  
 28

1 Michel Singer Nelson (CO Bar No. 19779)  
 2 Assistant Attorney General II  
 3 Bianca Feierstein (CO Bar No. 56653)  
 4 Assistant Attorney General  
 5 Colorado Office of the Attorney General  
 6 Ralph L. Carr Judicial Building  
 7 1300 Broadway, 10th Floor  
 8 Denver, CO 80203  
 9 Phone: (720) 508-6220 (Singer Nelson)  
 10 (720) 508-6246 (Feierstein)  
 11 [michel.singernelson@coag.gov](mailto:michel.singernelson@coag.gov)  
 12 [bianca.feierstein@coag.gov](mailto:bianca.feierstein@coag.gov)  
 13 *Attorneys for Plaintiff State of Colorado,*  
 14 *ex rel. Philip J. Weiser, Attorney General*  
 15  
 16  
 17  
 18  
 19  
 20  
 21  
 22  
 23  
 24  
 25  
 26  
 27  
 28

1 Brendan T. Flynn (Fed. Bar No. ct04545,  
 2 CT Bar No. 419935)  
 3 Assistant Attorney General  
 4 Office of the Connecticut Attorney  
 5 General William Tong  
 6 165 Capitol Avenue, Suite 4000  
 7 Hartford, CT 06106  
 8 Phone: (860) 808-5400  
 9 Fax: (860) 808-5593  
[brendan.flynn@ct.gov](mailto:brendan.flynn@ct.gov)

*Attorney for Plaintiff State of Connecticut*

10 Ryan Costa (DE Bar No. 5325)  
 11 Deputy Attorney General  
 12 Delaware Department of Justice  
 13 820 N. French Street, 5th Floor  
 14 Wilmington, DE 19801  
 15 Phone: (302) 683-8811  
 16 Fax: (302) 577-6499  
[Ryan.costa@delaware.gov](mailto:Ryan.costa@delaware.gov)

*Attorney for Plaintiff State of Delaware*

17 Adam Teitelbaum (DC Bar No. 1015715)  
 18 Director, Office of Consumer Protection  
 19 Assistant Attorney General  
 20 D.C. Office of the Attorney General  
 21 Office of Consumer Protection  
 22 400 6th Street NW, 10th Floor  
 23 Washington, DC 20001  
 24 Phone: (202) 741-0764  
[Adam.Teitelbaum@dc.gov](mailto:Adam.Teitelbaum@dc.gov)

*Attorney for Plaintiff District of Columbia*

25 Patrick Crotty (FL Bar No. 108541)  
 26 Senior Assistant Attorney General  
 27 Miles Vaughn (FL Bar No. 1032235)  
 28 Assistant Attorney General

29 Office of the Florida Attorney General  
 30 Consumer Protection Division  
 31 3507 E. Frontage Rd, Suite 325  
 32 Tampa, FL 33607  
 33 Phone: (813) 287-7950  
 34 Fax: (813) 281-5515  
[patrick.crotty@myfloridalegal.com](mailto:patrick.crotty@myfloridalegal.com)  
[miles.vaughn@myfloridalegal.com](mailto:miles.vaughn@myfloridalegal.com)

*Attorneys for Plaintiff Ashley Moody,  
 Attorney General of the State of Florida*

35 David A. Zisook (GA Bar No. 310104)  
 36 Senior Assistant Attorney General  
 37 Office of the Attorney General of the State  
 38 of Georgia  
 39 2 Martin Luther King Jr. Drive, SE, Ste.  
 40 356  
 41 Atlanta, GA 30334  
 42 Phone: (404) 458-4294  
 43 Fax: (404) 464-8212  
[dzisook@law.ga.gov](mailto:dzisook@law.ga.gov)

*Attorney for Plaintiff State of Georgia*

44 Christopher J.I. Leong (HI Bar No. 9662)  
 45 Deputy Attorney General  
 46 Hawaii Department of the Attorney  
 47 General  
 48 425 Queen Street  
 49 Honolulu, HI 96813  
 50 Phone: (808) 586-1180  
 51 Fax: (808) 586-1205  
[christopher.ji.leong@hawaii.gov](mailto:christopher.ji.leong@hawaii.gov)

*Attorney for Plaintiff State of Hawaii*

1 James J. Simeri (ID Bar No. 12332)  
 2 (*Pro Hac Vice motion forthcoming*)  
 3 Consumer Protection Division Chief  
 4 Idaho Attorney General's Office  
 5 P.O. Box 83720  
 6 Boise, ID 83720-0010  
 7 Phone: (208) 334-4114  
 8 [james.simeri@ag.idaho.gov](mailto:james.simeri@ag.idaho.gov)  
 9 *Attorney for Plaintiff State of Idaho*

10 Philip Heimlich (IL Bar No. 6286375)  
 11 Assistant Attorney General  
 12 Elizabeth Blackston (IL Bar No. 6228859)  
 13 Consumer Fraud Bureau Chief  
 14 Office of the Illinois Attorney General  
 15 500 S. Second Street  
 16 Springfield, IL 62791  
 17 Phone: (217) 782-4436  
 18 [philip.heimlich@ilag.gov](mailto:philip.heimlich@ilag.gov)  
 19 [elizabeth.blackston@ilag.gov](mailto:elizabeth.blackston@ilag.gov)  
 20 *Attorneys for Plaintiff People of the State*  
 21 *of Illinois*

22 Benjamin Bellus (IA Bar No. AT0000688)  
 23 William Pearson (IA Bar No. AT0012070)  
 24 Assistant Attorneys General  
 25 Office of the Iowa Attorney General  
 26 1305 E. Walnut St.  
 27 Des Moines, IA 50319  
 28 Phone: (515) 242-6536 (Bellus)  
 29 (515) 242-6773 (Pearson)  
 30 Fax: (515) 281-6771  
 31 [Benjamin.Bellus@ag.iowa.gov](mailto:Benjamin.Bellus@ag.iowa.gov)  
 32 [William.Pearson@ag.iowa.gov](mailto:William.Pearson@ag.iowa.gov)  
 33 *Attorneys for Plaintiff State of Iowa*

34 Nicholas C. Smith (KS Bar No. 29742)  
 35 Sarah M. Dietz (KS Bar No. 27457)  
 36 Assistant Attorneys General  
 37 Consumer Protection Section  
 38 Office of the Kansas Attorney General  
 39 120 SW 10th Avenue, 2nd Floor  
 40 Topeka, KS 66612  
 41 Phone: (785) 296-3751  
 42 Fax: (785) 291-3699  
 43 [Nicholas.Smith@ag.ks.gov](mailto:Nicholas.Smith@ag.ks.gov)  
 44 [sarah.dietz@ag.ks.gov](mailto:sarah.dietz@ag.ks.gov)  
 45 *Attorneys for Plaintiff State of Kansas*

46 Jacob P. Ford (KY Bar No. 95546)  
 47 Assistant Attorney General  
 48 Office of the Attorney General,  
 49 Commonwealth of Kentucky  
 50 1024 Capital Center Drive, Ste. 200  
 51 Frankfort, KY 40601  
 52 Phone: (502) 871-2044  
 53 [jacobp.ford@ky.gov](mailto:jacobp.ford@ky.gov)  
 54 *Attorney for Plaintiff Commonwealth of*  
 55 *Kentucky*

56 ZaTabia N. Williams (LA Bar No. 36933)  
 57 Assistant Attorney General  
 58 Office of the Attorney General Liz Murrill  
 59 1885 North Third St.  
 60 Baton Rouge, LA 70802  
 61 Phone: (225) 326-6164  
 62 Fax: (225) 326-6499  
 63 [WilliamsZ@ag.louisiana.gov](mailto:WilliamsZ@ag.louisiana.gov)  
 64 *Attorney for Plaintiff State of Louisiana*

1 Brendan O'Neil (ME Bar No. 009900)  
 2 Assistant Attorney General  
 3 Office of the Maine Attorney General  
 4 6 State House Station  
 5 Augusta, ME 04333  
 6 Phone: (207) 626-8800  
 7 Fax: (207) 624-7730  
[brendan.oneil@maine.gov](mailto:brendan.oneil@maine.gov)  
 8 *Attorney for Plaintiff State of Maine*

9 Philip Ziperman (Fed. Bar No. 12430)  
 10 Deputy Counsel  
 11 Office of the Attorney General  
 12 200 St. Paul Place  
 13 Baltimore, MD 21202  
 14 Phone: (410) 576-6417  
 15 Fax: (410) 576-6566  
[pziperman@oag.state.md.us](mailto:pziperman@oag.state.md.us)  
 16 *Attorney for Plaintiff Maryland Office of*  
 17 *the Attorney General*

18 Carol Guerrero (MA Bar No. 705419)  
 19 Assistant Attorney General  
 20 Massachusetts Office of the Attorney  
 21 General  
 22 One Ashburton Place, 18th Floor  
 23 Boston, MA 02108  
 24 Phone: (617) 963-2783  
 25 Fax: (617) 727-5765  
[Carol.Guerrero@mass.gov](mailto:Carol.Guerrero@mass.gov)  
 26 *Attorney for Plaintiff Commonwealth of*  
 27 *Massachusetts*

28 Kathy P. Fitzgerald (MI Bar No. P31454)  
 1 Michael S. Hill (MI Bar No. P73084)  
 2 Assistant Attorneys General  
 3 Michigan Department of Attorney General  
 4 Corporate Oversight Division  
 5 P.O. Box 30736  
 6 Lansing, MI 48909  
 7 Phone: (517) 335-7632  
 8 Fax: (517) 335-6755  
[fitzgeraldk@michigan.gov](mailto:fitzgeraldk@michigan.gov)  
[Hillm19@michigan.gov](mailto:Hillm19@michigan.gov)  
 9 *Attorneys for Plaintiff People of the*  
 10 *State of Michigan*

11 Bennett Hartz (MN Bar No. 0393136)  
 12 Assistant Attorney General  
 13 Office of the Minnesota Attorney General  
 14 445 Minnesota Street, Suite 1200  
 15 Saint Paul, MN 55404  
 16 Phone: (651) 757-1235  
[bennett.hartz@ag.state.mn.us](mailto:bennett.hartz@ag.state.mn.us)  
 17 *Attorney for Plaintiff State of Minnesota,*  
 18 *by its Attorney General, Keith Ellison*

19 James M. Rankin (MS Bar No. 102332)  
 20 Jessica D. Jasper (MS Bar No. 106305)  
*(Pro Hac Vice motion forthcoming)*  
 21 Special Assistant Attorneys General  
 22 Mississippi Attorney General's Office  
 23 P.O. Box 220  
 24 Jackson, MS 39205  
 25 Phone: (601) 359-4258 (Rankin)  
 26 (601) 359-3800 (Jasper)  
[james.rankin@ago.ms.gov](mailto:james.rankin@ago.ms.gov)  
[jessica.jasper@ago.ms.gov](mailto:jessica.jasper@ago.ms.gov)  
 27 *Attorneys for Plaintiff Lynn Fitch,*  
 28 *Attorney General State of Mississippi*

1 Michael Schwalbert (MO Bar No. 63299)  
 2 Assistant Attorney General  
 3 Office of the Missouri Attorney General  
 4 815 Olive Street, Suite 200  
 5 St. Louis, MO 63101  
 6 Phone: (314) 340-6816  
 7 Fax: (314) 340-7891  
[michael.schwalbert@ago.mo.gov](mailto:michael.schwalbert@ago.mo.gov)

*Attorney for Plaintiff State of Missouri, ex.  
 rel. Andrew Bailey, Attorney General*

8 Anna Schneider (MT Bar No. 13963)  
 9 Special Assistant Attorney General, Senior  
 Counsel  
 10 Andrew Butler (MT Bar No. 53936812)  
 Assistant Attorney General  
 11 Montana Attorney General's Office  
 Office of Consumer Protection  
 12 555 Fuller Avenue  
 13 Helena, MT 59601  
 14 Phone: (406) 444-4500  
[Anna.schneider@mt.gov](mailto:Anna.schneider@mt.gov)  
[Andrew.butler@mt.gov](mailto:Andrew.butler@mt.gov)

*Attorneys for Plaintiff State of Montana*

17 Gary E. Brollier (NE Bar No. 19785)  
 Assistant Attorney General  
 18 Office of the Attorney General Michael T.  
 Hilgers  
 19 2115 State Capitol Building  
 Consumer Protection Division  
 Lincoln, NE 68509  
 20 Phone: (402) 471-1279  
 21 Fax: (402) 471-4725  
[gary.brollier@nebraska.gov](mailto:gary.brollier@nebraska.gov)

*Attorney for Plaintiff State of Nebraska*

12 Michelle C. Badorine (NV Bar No. 13206)  
 Senior Deputy Attorney General  
 Office of the Nevada Attorney General  
 Bureau of Consumer Protection  
 100 North Carson Street  
 Carson City, NV 89701-4717  
 Phone: (775) 684-1164  
 Fax: (775) 684-1299  
[MBadorine@ag.nv.gov](mailto:MBadorine@ag.nv.gov)

*Attorney for Plaintiff State of Nevada*

13 Mary F. Stewart (NH Bar No. 10067)  
 Assistant Attorney General  
 New Hampshire Department of Justice  
 Office of the Attorney General  
 Consumer Protection and Antitrust Bureau  
 33 Capitol St.  
 Concord, NH 03301-6397  
 Phone: (603) 271-1139  
 Fax: (603) 271-2110  
[Mary.F.Stewart@doj.nh.gov](mailto:Mary.F.Stewart@doj.nh.gov)

*Attorney for Plaintiff State of New Hampshire*

14 Deepta Janardhan (NJ Bar No.  
 309022020)  
 Jeffrey Koziar (NJ Bar No. 015131999)  
 Deputy Attorneys General  
 New Jersey Office of the Attorney General  
 Division of Law  
 124 Halsey Street  
 Newark, NJ 07101  
 Phone: (973) 648-7819  
 Fax: (973) 648-4887  
[Deepta.Janardhan@law.njoag.gov](mailto:Deepta.Janardhan@law.njoag.gov)  
[Jeff.koziar@law.njoag.gov](mailto:Jeff.koziar@law.njoag.gov)

*Attorneys for Plaintiff State of New Jersey*

25

26

27

28

1 Julie Ann Meade (NM Bar No. 8143)  
 2 Assistant Attorney General  
 3 State of New Mexico Department of  
 4 Justice  
 5 408 Galisteo St.  
 6 Santa Fe, New Mexico 87501  
 7 Phone: (505) 490-4058  
 8 Fax: (505) 490-4883  
 9 [jmeade@nmag.gov](mailto:jmeade@nmag.gov)  
 10 *Attorney for Plaintiff Raúl Torrez, New Mexico Attorney General*  
 11  
 12 Glenna Goldis (NY Bar No. 4868600)  
 13 Assistant Attorney General  
 14 Office of the New York State Attorney General  
 15 28 Liberty Street  
 16 New York, NY 10005  
 17 Phone: (646) 856-3697  
 18 [Glenna.goldis@ag.ny.gov](mailto:Glenna.goldis@ag.ny.gov)  
 19 *Attorney for Plaintiff Office of the Attorney General of the State of New York*  
 20  
 21 Elin S. Alm (ND Bar No. 05924)  
 22 Christopher Glenn Lindblad (ND Bar No. 06480)  
 23 Assistant Attorneys General  
 24 Office of North Dakota Attorney General  
 25 Consumer Protection & Antitrust Division  
 26 1720 Burlington Drive, Suite C  
 27 Bismarck, ND 58504-7736  
 28 Phone: (701) 328-5570  
 Fax: (701) 328-5568  
[ealm@nd.gov](mailto:ealm@nd.gov)  
[clindblad@nd.gov](mailto:clindblad@nd.gov)  
*Attorneys for Plaintiff State of North Dakota*

Caleb J. Smith (OK Bar No. 33613)  
 Assistant Attorney General  
 Office of the Oklahoma Attorney General  
 313 N.E. 21st St.  
 Oklahoma City, OK 73105  
 Phone: (918) 581-2230  
 Fax: (405) 522-0085  
[Caleb.Smith@oag.ok.gov](mailto:Caleb.Smith@oag.ok.gov)  
*Attorney for Plaintiff State of Oklahoma ex rel. Attorney General Gentner Drummond*

Jordan M. Roberts (OR Bar No. 115010)  
 Senior Assistant Attorney General  
 Oregon Department of Justice  
 Consumer Protection Division  
 100 SW Market St.  
 Portland, OR 97201  
 Phone: (971) 673-1880  
 Fax: (971) 673-1884  
[jordan.m.roberts@doj.state.or.us](mailto:jordan.m.roberts@doj.state.or.us)  
*Attorney for Plaintiff State of Oregon*

Mark W Wolfe (PA Bar No. 327807)  
 Deputy Attorney General  
 Pennsylvania Office of Attorney General  
 Strawberry Square, 15th Floor  
 Harrisburg, PA 17120-0001  
 Phone: (717) 772-3558  
 Fax: (717) 705-3795  
[mwolfe@attorneygeneral.gov](mailto:mwolfe@attorneygeneral.gov)  
*Attorney for Plaintiff Commonwealth of Pennsylvania by Attorney General Michelle A. Henry*

1 Stephen N. Provazza (RI Bar No. 10435)  
 2 Special Assistant Attorney General  
 3 Rhode Island Office of the Attorney  
 4 General  
 5 150 S. Main Street  
 6 Providence, RI 02903  
 7 Phone: (401) 274-4400, ext. 2476  
 8 Fax: (401) 222-1766  
 9 [sprovazza@riag.ri.gov](mailto:sprovazza@riag.ri.gov)  
 10 *Attorney for Plaintiff State of Rhode  
 11 Island, by Attorney General Peter  
 12 Neronha*

13 Kristin Simons (SC Bar No. 74004)  
 14 Senior Assistant Attorney General  
 15 Danielle Robertson (SC Bar No. 105846)  
 16 Assistant Attorney General  
 17 South Carolina Attorney General's Office  
 18 P.O. Box 11549  
 19 Columbia, SC 29211-1549  
 20 Phone: (803) 734-6134 (Simons)  
 21 (803) 734-8044 (Robertson)  
 22 [ksimons@scag.gov](mailto:ksimons@scag.gov)  
 23 [danirobertson@scag.gov](mailto:danirobertson@scag.gov)  
 24 *Attorneys for Plaintiff State of South  
 25 Carolina*

26 Austin C. Ostiguy (TN Bar No. 040301)  
 27 Tyler T. Corcoran (TN Bar No. 038887)  
 28 Assistant Attorneys General  
 29 Office of the Tennessee Attorney General  
 30 P.O. Box 20207  
 31 Nashville, TN 37202  
 32 Phone: (615) 532-7271 (Ostiguy)  
 33 (615) 770-1714 (Corcoran)  
 34 Fax: (615) 532-2910  
 35 [austin.ostiguy@ag.tn.gov](mailto:austin.ostiguy@ag.tn.gov)  
 36 [tyler.corcoran@ag.tn.gov](mailto:tyler.corcoran@ag.tn.gov)  
 37 *Attorneys for Plaintiff State of Tennessee*

38 David Shatto (Fed. Bar No. 3725697; TX  
 39 Bar No. 24104114)  
 40 Assistant Attorney General  
 41 Attorney General for the State of Texas  
 42 Office of the Attorney General  
 43 P.O. Box 12548 (MC-010)  
 44 Austin, TX 78711  
 45 Phone: (512) 463-2185  
 46 Fax: (512) 473-9125  
 47 [David.Shatto@oag.texas.gov](mailto:David.Shatto@oag.texas.gov)  
 48 *Attorney for Plaintiff State of Texas*

49 Kevin McLean (UT Bar No. 16101)  
 50 Assistant Attorney General  
 51 Utah Attorney General's Office  
 52 160 East 300 South, 5th Floor  
 53 P.O. Box 140872  
 54 Salt Lake City, UT 84114-0872  
 55 Phone: (801) 366-0310  
 56 Fax: (801) 366-0315  
 57 [kmclean@agutah.gov](mailto:kmclean@agutah.gov)  
 58 *Attorney for Plaintiff Utah Division of  
 59 Consumer Protection*

60 Jill Abrams (VT Bar No. 4944)  
 61 *(Pro Hac Vice motion forthcoming)*  
 62 Office of the Vermont Attorney General  
 63 109 State Street  
 64 Montpelier, VT 05609-1001  
 65 Phone: (802) 828-3171  
 66 Fax: (802) 304-1014  
 67 [Jill.Abrams@vermont.gov](mailto:Jill.Abrams@vermont.gov)  
 68 *Attorney for Plaintiff State of Vermont*

1 Geoffrey L. Ward (VA Bar No. 89818)  
 2 Senior Assistant Attorney General  
 3 Office of the Attorney General of Virginia  
 4 202 N. Ninth St.  
 5 Richmond, VA 23219  
 6 Phone: (804) 371-0871  
 7 Fax: (804) 786-0122  
 8 [gward@oag.state.va.us](mailto:gward@oag.state.va.us)  
 9 *Attorney for Plaintiff Commonwealth of*  
 10 *Virginia, ex rel. Jason S. Miyares,*  
 11 *Attorney General*  
 12  
 13 Alexandra Kory (WA Bar No. 49889)  
 14 Mina Shahin (WA Bar No. 46661)  
 15 Assistant Attorneys General  
 16 Washington State Attorney General's  
 17 Office  
 18 800 Fifth Avenue, Suite 2000  
 19 Seattle, WA 98104  
 20 Phone: (206) 516-2997 (Kory)  
 21 (206) 326-5485 (Shahin)  
 22 Fax: (206) 464-6451  
 23 [Alexandra.Kory@atg.wa.gov](mailto:Alexandra.Kory@atg.wa.gov)  
 24 [Mina.Shahin@atg.wa.gov](mailto:Mina.Shahin@atg.wa.gov)  
 25 *Attorneys for Plaintiff State of Washington*

1 Ashley T. Wentz (WV Bar No. 13486)  
 2 Assistant Attorney General  
 3 West Virginia Attorney General's Office  
 4 Consumer Protection/Antitrust Division  
 5 P.O. Box 1789  
 6 Charleston, WV 25326  
 7 Phone: (304) 558-8986  
 8 Fax: (304) 558-0184  
 9 [Ashley.T.Wentz@wvago.gov](mailto:Ashley.T.Wentz@wvago.gov)  
 10 *Attorney for Plaintiff State of West*  
 11 *Virginia ex rel. Patrick Morrisey, Attorney*  
 12 *General*

1 Gregory A. Myszkowski (WI Bar No.  
 2 1050022)  
 3 Assistant Attorney General  
 4 Wisconsin Department of Justice  
 5 P.O. Box 7857  
 6 Madison, WI 53707-7857  
 7 Phone: (608) 266-7656  
 8 Fax: (608) 294-2907  
 9 [myszkowskiga@doj.state.wi.us](mailto:myszkowskiga@doj.state.wi.us)  
 10 *Attorney for Plaintiff State of Wisconsin*

11 Benjamin M. Peterson (WY Bar No. 8-  
 12 6513)  
 13 Assistant Attorney General  
 14 Wyoming Office of the Attorney General  
 15 Kendrick Building  
 16 2320 Capitol Avenue  
 17 Cheyenne, Wyoming 82002  
 18 Phone: (307) 777-8240  
 19 Fax: (307) 777-3435  
 20 [benjamin.peterson2@wyo.gov](mailto:benjamin.peterson2@wyo.gov)  
 21 *Attorney for Plaintiff State of Wyoming*

22  
 23  
 24  
 25  
 26  
 27  
 28